

LEYVRAS, Philippe
Appl. No. 10/518,368
November 6, 2008

REMARKS/ARGUMENTS

Claims 1-31 and 33-34 now stand in the present application, claims 1-4, 6, 16, 29 and 33 having been amended. Reconsideration and favorable action is respectfully requested in view of the above amendments and the following remarks.

In the Office Action the Examiner states that the Information Disclosure Statement filed on December 17, 2004, fails to comply with 37 CFR 1.98(a)(2) in that certain documents apparently were not supplied by WIPO directly to the USPTO or were lost by the USPTO during scanning. Accordingly, Applicants have submitted new copies of the "missing" documents.

The Examiner has rejected claims 1-35 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. As noted above, Applicant has amended the claims in order to correct each of the deficiencies pointed out by the Examiner and antecedent basis problems. Accordingly, the Examiner's § 112, second paragraph, rejection of the claims is believed to have been overcome.

The Examiner has also rejected claims 1-35 under 35 U.S.C. § 103(a) as being unpatentable over Applicant's admitted prior art (AAPA) in view of Brodsky et al., in view of Burgess and in view of Campbell, Jr. et al., and has rejected claims 14 and 24 over the cited art in view of JP 02001062579A. Applicant respectfully traverses the Examiner's § 103 rejections of the claims.

The Examiner is continuing to reject all claims over the previously cited references as being obvious under 35 U.S.C. § 103(a). In maintaining the obviousness

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rejection of all claims the Examiner still has not addressed the actual claim limitations nor has he identified where in the cited references the specific limitations can be found. For example, the Examiner allegedly responds to our previous arguments beginning at page 5 of the Office Action but no where does the Examiner acknowledge our argument at page 21 of the previously filed Amendment wherein it is pointed out that none of the cited references disclose a control unit comprising a memory in which an individual marking pattern can be stored, which is first applied on an object and then compared to the applied code marking on the object.

The Examiner notes that the AAPA describes in the specification the state of the art well known for laser marking. See Office Action at page 3. The Examiner does not identify which or any of the AAPA references described in the specification constitute the prior art that the Examiner is relying upon, let alone identify what portions of those alleged prior art references the Examiner is relying upon as AAPA. In this regard it is noteworthy that the European Patent Office deemed all of the "so-called" Examiner's prior art references (AAPA) as being category A references which are each described as a "document defining the general state of the art which is not considered to be of particular relevance."

In rejecting the present claims the Examiner then goes on to combine three more references, Brodsky et al., Burgess and Campbell, Jr. et al. with the unidentified AAPA prior art. As will be described below, none of the cited references described as background art in the present specification or the Examiner's newly cited references,

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taken either singly or in any combination with other references, teaches or suggests Applicant's inventions.

More particularly, none of the AAPA documents nor the other cited documents disclose a control unit comprising a memory in which an individual marking pattern can be stored, which in a first step is applied on an object and which in a second step is compared to the applied code marking on the object. Therefore, it is respectfully submitted that the subject matter of independent claims 1,16 and 29 are not taught or suggested by any combination of the cited prior art. In addition, independent claim 33 which provides a specific focus depth for the laser beam focusing means is also not taught or suggested by any cited reference or combination of the cited prior art.

In particular, the inspection of a previously applied code pattern is only discussed in document WO 92/15963, which relates to the coding of recyclable PEL plastic bottles, wherein an inspection means 5 comprising a CCD-camera 6 is employed as a reading means of the applied code marking. However, no functional connection between coding station 3 and inspection means 5 is disclosed in the cited art, in particular no individual marking pattern is stored in a control unit, as required in independent claims 1, 16 and 29. Tellingly, the Examiner has not cited to any of the prior art for this teaching.

In contrast, the present invention is particularly addressed to meet the requirements of pharmaceutical industry as stated on p. 1, lines 12 to 17, wherein individual code markings on each receptacle are desired in order to allow individually tracing back of fabricated pharmaceuticals. The application of individual markings on different glass receptacles is described e.g. on p. 7, lines 34 to 36. According to the

invention, said comparison with the individual marking pattern stored in the control unit allows the inspection of the previously applied, individual markings on different glass receptacles.

Moreover, none of the cited documents describe the detection of the position of the glass receptacles or of the transport speed as required by independent claims 1,16 and 29. This information is used in Applicant's inventions to correct or track the deflection of the laser light beam as stated on p. 9, lines 12 to 14 of the present specification. Thereby, the reliability of the marking method is enhanced, the number of defective objects decreased and inscription of objects "on the fly" made possible in order to meet the requirements of pharmaceutical industry. Again, Tellingly, the Examiner has failed to cite to any of the prior art for this teaching.

The use of a particular laser wavelength below 380 nm on glass-ceramic or glass material according to independent claims 1,16, 29 and 33 is only known from document US 2001/0009707. This document, however, is not related to the deposition of code marking, but to generating a textured surface on memory disk substrates, wherein the effect is exploited in that UV-lasers are particularly effective for this purpose. Therefore, it would not have been obvious for one skilled in the art to apply this wavelength in the field of code marking technology on glass receptacles. The present application teaches that this wavelength has the advantage, that the respective locations of the glass surface are subjected to much lower thermal stress compared to commonly applied CO₂ lasers, as stated on p. 6, lines 27 to 38. Thus, the danger of damaging the glass is greatly reduced.

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In summary the novel features of independent claims 1, 16, 29 and 33, are not disclosed in any of the cited prior art documents. Accordingly, independent claims 1, 16, 29 and 33 and their respective dependent claims patentably define over the cited art taken singly or in any combination.

With respect to the Examiner's rejection of claims 14 and 24, Applicants note that JP 2001 1062579A relates to a method for processing of a workpiece by means of laser irradiation and has merely been cited for a CCD camera's detection of light transmitted through a work piece. See Office Action at page 5. Accordingly, this reference does not solve the deficiencies noted above with respect to all of the other references and, therefore, claims 14 and 24 also patentably define over the cited art.

Finally, the Examiner is correct on page 6, third paragraph of the Office Action, that "one can not show non-obviousness by attacking references individually where the rejections are based on combinations of references." However, as Applicants pointed out above, all of the cited references fail to teach specific claim limitations of the present claims and the Examiner has not and cannot identify where in any of the references these limitations can be found. Indeed, Applicants note most of the cited documents are not even closely related to the technical field of the present invention but are dispersed over a remarkable technical range spanning from laser drilling systems over texturing of ceramic memory discs to the labeling of optical elements. Therefore, Applicant submits that such a compilation of prior art documents can only be carried out in terms of a retrospective view derived from disclosed subject matter of the present patent application but cannot be conducted by one skilled in the art without knowing the

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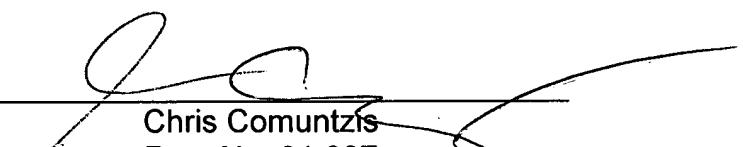
present invention.

Therefore, in view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all of claims 1-31, 33 and 34, now standing in the application, be allowed and that the case be passed to issue. If there are any other issues remaining which the Examiner believes could be resolved through either a supplemental response or an Examiner's amendment, the Examiner is respectfully requested to contact the undersigned at the local telephone exchange indicated below.

Respectfully submitted,

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